



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

JUL 12 2013

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert La Gravenis
K&L Gates LLP
One Newark Center, Tenth Floor
Newark, NJ 07102-5285

Re: Freedom of Information Act Request EPA-R2-2013-007419

Dear Mr. La Gravenis:

This will respond to your Freedom of Information Act ("FOIA") request EPA-R2-2013-007419, as modified by a telephone conference between Assistant Regional Counsel Sarah Flanagan and Karyllan Mack of K&L Gates on June 25, 2013.

First, the FOIA request seeks documents resulting from or relating to the 2013 peer review performed of the sediment transport, organic carbon and contaminant fate and transport models supporting EPA's Focused Feasibility Study of the lower eight miles of the Lower Passaic River Study Area ("LPRSA"). I understand that, based on EPA's explanation that the Region is preparing a report documenting the peer review process, appended to which will be the peer review comments and EPA's responses, and which will be released in August 2013, you are not currently pursuing this part of the FOIA request.

Second, the FOIA request seeks documents relating to and resulting from the National Remedy Review Board's December 2012 review of and comment on Region 2's anticipated selection of a remedy for the lower eight miles of the LPRSA. We understand that by this, you mean to request the comments transmitted by the National Remedy Review Board to Region 2.

With respect to the second part of the FOIA request, EPA has identified six responsive documents. The documents consist of drafts of a memorandum setting forth the comments and recommendations of the National Remedy Review Board and Contaminated Sediments Technical Advisory Group for the Diamond Alkali Superfund Site, Lower Eight Miles of the Lower Passaic River (Focused Feasibility Study Area), with dates from December 13, 2012 to May 2, 2013. These documents are exempt from disclosure under the exemption found at

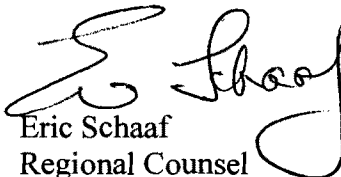
5 U.S.C. §552(b)(5), which applies to documents that would not be available by law in litigation with the agency, because they are considered predecisional and deliberative and contain attorney-client communications.

You may appeal this denial response to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460 (U.S. Postal Service Only), E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20004.

Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should clearly identify the determination being appealed, including the assigned FOIA request number shown above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal." See 40 C.F.R. §2.104(j) for further information regarding appeals of adverse determinations under FOIA.

Please contact Sarah Flanagan of my staff at 212-637-3136 if you have any questions concerning this matter.

Sincerely yours,


Eric Schaaf
Regional Counsel